

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SOPHIA BALOW, et al., Plaintiffs, v. MICHIGAN STATE UNIVERSITY, et al., Defendants.	CIVIL ACTION NO. 1:21-cv-00044 Hon. Hala Y. Jarbou Magistrate Judge Phillip J. Green
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**PLAINTIFFS' MOTION FOR SUMMARY JUDGEMENT
ORAL ARGUMENT REQUESTED**

Plaintiffs, by and through their undersigned counsel, hereby submit their Motion for Summary Judgement in this matter:

1. Plaintiffs were members of Michigan State University's varsity women's swimming and diving team until the team was eliminated in June 2021. Plaintiffs bring sex discrimination claims against Defendants pursuant to Title IX.

2. MSU accepts federal funding, making it subject to Title IX. *See* 20 U.S.C. § 1687.

3. Title IX requires institutions, like MSU, to provide equal athletic participation opportunities by, among other things, providing athletic participation opportunities for men and women that are substantially proportionate to their respective undergraduate enrollment.

4. MSU's own undergraduate enrollment data and athletic participation data demonstrates that, in 2020-21 and 2021-22, MSU did not provide substantially proportionate participation opportunities.

5. Indeed, MSU's own data demonstrates that MSU maintained female participation gaps that were large enough to sustain a viable women's team—namely, the very women's swimming and diving team that MSU eliminated.

6. Additionally, in 2019-20, MSU included in its Title IX participation counts males and females on the outdoor track and field team.

7. Title IX permits institutions to count students as participants only if they have a season.

8. MSU does not dispute that the outdoor track and field teams did not have a season for the 2019-20 academic year because of the COVID-19 pandemic.

9. The student-athletes do not meet the definition of a Title IX participant.

Wherefore, Plaintiffs respectfully request that this Court enter summary judgment on Plaintiffs' Title IX equal athletic participation claim and hold as matter of law that Defendants cannot include the 2019-20 men's and women's outdoor track and field teams in their Title IX participation counts.

Respectfully submitted,

By: /s/ Lori A. Bullock

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Dated: September 16, 2022

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2022, I electronically filed the foregoing document with the Clerk of Court using the ECF system that will send notification of such filing upon all ECF filing participants.

September 16, 2022

/s/ Lori A. Bullock